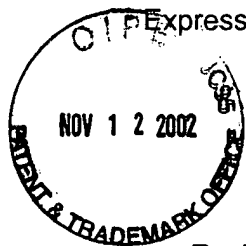


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Lee and Kim

SERIAL No.: 09/499,693

FILED: February 8, 2000

FOR: HIGHER UNSATURATED FATTY
ACID COMPOSITION

EXAMINER: L. Wells

ART UNIT: 1617

CONFIRMATION No.: 1622

#21
AKD
11/19/02Request for Withdrawal of FinalityAssistant Commissioner for Patents
Box AF
Washington, D.C. 20231

Sir:

1. On August 9, 2002, Applicants timely filed a response under 37 CFR §1.111 in the above-referenced application.
2. On October 16, 2002, the United States Patent and Trademark Office (USPTO) mailed a final Office action.
3. In the final Office action, the Examiner cited new ground(s) of rejection based on three newly cited references and one reference previously of record.
4. The Examiner asserted that the "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action." Applicants request reconsideration of this position for these reasons.
5. First, the claim amendments to independent claims 26, 30, 34, 38, and 42 merely rearranged the existing claim elements. No elements or limitations were added or removed. Before and after the claim amendments, the same claim elements were present.

6. According to MPEP §706.07(a) "[a] second or any subsequent action on the merits in any application ... should not be made final if it includes a rejection, on prior art not of record, or any claims amended to include limitations which should reasonably have been expected to be claimed."

7. Since the claim amendments in the response filed August 9, 2002 simply rearranged the claim elements, the Examiner knew or reasonably should have known what was already claimed.

8. Moreover, according to MPEP §706.07(a) "a second or subsequent action on the merits in any application....will not be made final if it includes a rejection, on newly cited art, of any claim not amended by applicant....in spite of the fact that other claims may have been amended to require newly cited art."

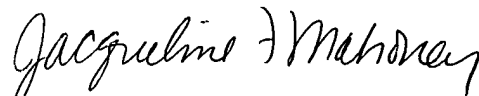
9. Applicants note that the Examiner has rejected claims that were not amended. Specifically, claims 27- 29, 31-33, 35-37, and 39-41 were not amended, but are rejected on the newly cited art.

10. Accordingly, Applicants respectfully withdrawal of the finality of the Office action.

No fees are believed due with this petition, however, the Commissioner is authorized to charge any fees deemed due for timely consideration of this petition to Deposit Account No. 50-2207.

If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 838-4410.

Respectfully submitted,



Jacqueline F. Mahoney
Registration No. 48,390

Date: Nov. 12, 2002

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